

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6783

JUSTIN M. PORTER,

Petitioner - Appellant,

versus

WARDEN ANTHONY; SOUTH CAROLINA STATE
LEGISLATURE; HENRY MCMASTER, Attorney
General of South Carolina,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Beaufort. David C. Norton, District Judge.
(CA-03-2557-9-18BG)

Submitted: September 16, 2004 Decided: September 22, 2004

Before LUTTIG, KING, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Justin M. Porter, Appellant Pro Se. Donald John Zelenka, Chief
Deputy Attorney General, John William McIntosh, Assistant Attorney
General, Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Justin M. Porter appeals a district court's order accepting a magistrate judge's recommendation to dismiss as untimely his petition filed under 28 U.S.C. § 2254 (2000). The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Porter has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED